



Arizona State Retirement System

3300 North Central Avenue, Phoenix, AZ 85012
WWW.ASRS.STATE.AZ.US

Employer Information Sheet

Contact information:

Employer Relations

Phoenix (602) 240-2022, 240-2147, 240-2093
Tucson (520) 239-3100 ext 2022, 2147, 2093
Toll-free (800) 621-3778 ext 2002, 2147, 2093

WITHHOLDING CONTRIBUTIONS FROM TERMINATION PAY

Prior to January 1, 1984, compensation was defined as the amount actually received by the participant for remuneration for employment from an employer on an hourly or salaried basis, including any incentive compensation, overtime or other irregular payments (former § 38-781.01). The definition (§ 38-711) was amended for members hired on or after January 1, 1984 to exclude "lump sum payments paid on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay, whether the payments are made in one payment or by installments over a period of time."

There are a number of related questions regarding the treatment of termination pay and post-retirement payments due to changes in the law and changes in employers offering early retirement incentive programs. The basic question is whether certain payments are included in "compensation" for retirement benefit calculations.

Arizona Attorney General Opinion No. 101-004 (January 24, 2001) concluded that compensation not owed until after retirement could not be considered in calculating benefits. The ASRS applies the following rules to termination pay in order to comply with the statutes and the January 24, 2001 Attorney General Opinion:

- 1) All payments made or legally payable to a member up to the date of retirement, excluding termination payments for post 1984 employees, will be considered in the benefits calculation.
- 2) Payments legally payable to a member prior to the retirement date but made after retirement *at the election of the member* will be considered in the benefits calculation. These payments are for vacation, annual, sick, compensatory time or overtime pay.
- 3) Payments made after a member's retirement date that were not legally payable at the retirement date, will not be considered in the benefits calculation. Payments such as 301 monies or Voluntary Retirement Incentive programs are not included.
- 4) Retirement contributions *are* taken out of the termination pay at the current contribution rate in affect at the time of payment. Long Term Disability payments *are not* taken out of the termination pay.